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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,144	04/01/2004	Alcide Mercier	979-064	1176

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SOFER & HAROUN, LLP
Suite 910
317 Madison Avenue
New York, NY 10017

EXAMINER

THOMPSON, JEWEL VERGIE

ART UNIT	PAPER NUMBER
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2855

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/817,144	Applicant(s) MERCIER, ALCIDE	
	Examiner Jewel V Thompson	Art Unit 2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6 and 7 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/1/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

1. Acknowledgement is made of the Information Disclosure Statement filed April 14, 2004, which has been made record of and placed in the file.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Sabatino et al (4,253,332).

Regarding claim 1, Sabatino et al teaches a fluid meter (fig. 1), in particular a water meter, the water meter comprising: a tank (13) having a bottom and into which is inserted through an opening opposite the bottom in an insertion direction parallel to its axis of symmetry a measurement chamber (col. 5, lines 58-61) having at least one lateral orifice connected in a sealed manner to a pipe of the tank via a seal that is compressed between an external surface of the chamber, called the first surface, and an internal surface of the tank, called the second surface, wherein the first and second surfaces are inclined to the axis of symmetry of the tank and the minimum distance

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between the first and second surfaces and the axis of symmetry is near the bottom of the tank (fig. 1 and col. 7, lines 3-14).

Regarding claim 2, Sabatino et al teaches the distance between the first and second surfaces and the axis of symmetry is inversely proportional to the distance between the surfaces and the upper opening (fig. 1).

Regarding claim 3, Sabatino et al teaches the first and second surfaces are substantially parallel and the seal is of constant section (col. 7, lines 41-48).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sabatino et al in view of Viduya (5,706,372).

Regarding claim 6, Sabatino et al fails to teach the whole of the internal surface of the tank is frustoconical. Viduya teaches a combustion pressure sensor comprising a housing bounded by frustoconical side wall (col. 4, lines 40-43). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to have

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used the frustoconical shape of Viduya in the flow meter of Sabatino et al for the purpose of providing a continuous steady flow of fluid in the tube.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sabatino et al in view of Anderson, Jr. (4,580,703)

Regarding claim 7, Sabatino et al fails to teach the tank is made of a plastic material. Anderson, Jr. teaches a fluid metering apparatus wherein the cylinder is further covered with a layer of plastic tube (col. 6, lines 12-15). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to have used the material of Anderson in the apparatus of Sabatino et al for the purpose of providing temporary chemical containment in the event of cylinder fracture (col. 6, lines 15-17, Anderson)

Allowable Subject Matter

5. Claims 4 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jewel V Thompson whose telephone number is 571-272-2189. The examiner can normally be reached on 7-4:30, off alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on 571-272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jvt
October 25, 2004


EDWARD LEFKOWITZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800